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Date: Wednesday, June 05, 2019 12:19:56 PM

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California Public Safety Labor Blog

U.S. Supreme Court Rules Probable Cause Will Generally Defeat A Claim of Retaliatory Arrest

Posted: 04 Jun 2019 05:41 PM PDT

On May 28th, the U.S Supreme Court released it much anticipated ruling in the case of *Nieves v. Bartlett*. The case arrived before the Supreme Court after Bartlett was arrested in 2014 by police Officers Luis Nieves and Bryce Weight. He was arrested based on probable cause for harassment, disorderly conduct, and resisting arrest. The arrest came after Bartlett allegedly interfered with officers investigating a case of suspected underage drinking. The details are disputed, including whether, after handcuffing Bartlett, Officer Nieves said: “Bet you wish you would have talked to me now.”

Although the charges against Bartlett were eventually dropped, he filed suit against both officers. He claimed his free speech rights were violated. The 9th Circuit in San Francisco ruled that the lawsuit could go forward despite the fact that there was probable cause to make an arrest. Specifically, the lower court ruled that based on Sergeant Nieves’s alleged statement to of “bet you wish you would have talked to me now,” a reasonable jury could find both officers arrested Bartlett in retaliation for his refusal to answer Sergeant Nieves’s questions earlier in the evening. The case was appealed to the Supreme Court.

In a nearly unanimous decision, the Supreme Court held that “if there was probable cause to make the arrest, that generally will be enough to keep a lawsuit from moving forward...otherwise...policing certain events like an unruly protest would pose overwhelming litigation risks...any in artful turn of phrase or perceived slight during a legitimate arrest could land an officer in years of litigation.”

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